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8 Attorneys for Defendant and Cross-Complainant
 9 FEDERAL DEPOSIT INSURANCE CORPORATION, AS
 RECEIVER FOR SILICON VALLEY BANK

10 **UNITED STATES DISTRICT COURT**
 11 **NORTHERN DISTRICT OF CALIFORNIA**
 12 **(OAKLAND DIVISION)**

14 MICHAEL B. ROTHENBERG,
 15 an individual,

16 Plaintiff and Cross-Defendant,

17 vs.

18 FEDERAL DEPOSIT INSURANCE
 19 CORPORATION, as receiver for Silicon
 Valley Bank, a corporation,

21 Defendant and Cross-Complainant.

Case No. 23-cv-01603-JST

DEFENDANT AND CROSS-
COMPLAINANT FEDERAL DEPOSIT
INSURANCE CORPORATION, AS
RECEIVER FOR SILICON VALLEY
BANK'S CASE MANAGEMENT
STATEMENT

CMC Date: November 26, 2024

Time: 2:00 p.m.

Place: Via Zoom

Honorable Jon S. Tigar

1 Pursuant to the Order Continuing Case Management Conference [Dkt. 45], Defendant
2 and Cross-Complainant Federal Deposit Insurance Corporation, as receiver for Silicon Valley
3 Bank (“Defendant/Cross-Complainant” or “FDIC-R”) submits this Case Management Statement
4 in advance of the Further Case Management Conference scheduled in this matter for November
5 26, 2024 at 2:00 p.m.

6 As an initial matter, the FDIC-R provides the following update to the Court regarding
7 anticipated motion practice in this action. The FDIC-R plans to file one or both of the following
8 motions: (1) a motion for sanctions, including but not limited to terminating sanctions, pursuant
9 to Rule 37 for Plaintiff and Cross-Defendant Michael Rothenberg’s (“Mr. Rothenberg”) failure
10 to comply with Court orders regarding discovery; and (2) a motion for summary judgment or
11 partial summary judgment pursuant to Rule 56, based in part on the preclusive effect of Mr.
12 Rothenberg’s prior conviction for the same fraudulent conduct at issue in the FDIC-R’s claims
13 here. *See Sec. & Exch. Comm’n v. Stein*, 906 F.3d 823, 828 (9th Cir. 2018) (discussing
14 preclusive effect of criminal convictions in related civil proceedings). The FDIC-R is also
15 considering other options for resolution of this matter.

16 In addition, Mr. Rothenberg’s sentencing hearing in the related criminal matter (*USA v.*
17 *Rothenberg*, Case No. 4:20-cr-00266-JST), which was calendared for November 8, 2024, has
18 been vacated after Mr. Rothenberg’s attorney in the criminal matter withdrew as counsel of
19 record and Mr. Rothenberg was referred for the appointment of new counsel. A status
20 conference has been scheduled in the criminal matter for January 17, 2025. Accordingly, the
21 FDIC-R respectfully requests that this Court continue the Case Management Conference to
22 February 18, 2025, or a date thereafter, so that the Parties can discuss with the Court the effect
23 of Mr. Rothenberg’s sentencing on this matter. The FDIC-R has concurrently filed an
24 administrative motion requesting this continuance. [See Dkt. 46]

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1 Dated: November 19, 2024

PILLSBURY WINTHROP SHAW PITTMAN LLP

2 By: /s/ Laura C. Hurtado

3 THOMAS V. LORAN III

4 LAURA C. HURTADO

5 ALEKZANDIR MORTON

6 Attorneys for Defendant and Cross-Complainant
7 Federal Deposit Insurance Corporation, as Receiver
8 for Silicon Valley Bank

9 **CERTIFICATE OF SERVICE**

10 I hereby certify that on the 19th day of November 2024, true and correct copy(ies) of
11 the foregoing document(s) was served via email to the following party:

12 Michael B. Rothenberg
13 Email: mrothenberg@rothenberg.co
svb@rothenberg.co

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15 Anna Lau

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